11.0 Responses to Comments on the Draft Environmental Impact Statement

The US Highway 53 Virginia to Eveleth Draft Environmental Impact Statement (EIS) (December 2014) is incorporated by reference and is considered part of the Final EIS.

In December 2014, the Draft EIS was distributed to the Minnesota Environmental Quality Board distribution list, cooperating and participating agencies, and members of the Project Advisory Committee. The document was available for review in hard copy at local libraries and local government offices and was available in electronic format on the project website.

The public comment period for the Draft EIS extended from December 22, 2014 to February 5, 2015. An open house/public hearing was held on January 22, 2015. Attendees of the open house/public hearing were invited to provide comments on the proposed project through comment forms or oral statements to a court reporter.

Comments were received from five government agencies and 12 members of the public. Responses to these comments are provided in this chapter in the following order:

- US Army Corps of Engineers
- US Department of Interior
- US Environmental Protection Agency
- Minnesota Department of Natural Resources
- Minnesota Pollution Control Agency
- Public Comments

All comments received on the Draft EIS were considered in identifying the preferred alternative and in the development of the Final EIS. Two commenters (the US Environmental Protection Agency and one member of the public) expressed a preference regarding the Straight Option and the Curved Setback Option; both preferred the Straight Option.

Where appropriate, text has been incorporated into the Final EIS in response to comments on the Draft EIS. As such, responses to comments refer to relevant sections of the Final EIS.

11.1 US Army Corps of Engineers

DEPARTMENT OF THE ARMY
ST. PAUL DISTRICT, CORPS OF ENGINEERS
180 FIFTH STREET EAST, SUITE 700
ST. PAUL, MN 55101-1678

REPLY TO ATTENTION OF

FEB 0 2 2015

Operations Division
Regulatory Branch (2011-00769-DWW)

Mr. Pat Huston, Project Manager
Minnesota Department of Transportation District 1
1123 Mesaba Avenue
Duluth, Minnesota 55811

Dear Mr. Huston:

We are writing to provide comments as a cooperating agency on the Draft Environmental Impact Statement (DEIS), dated December 2014, prepared for the U.S. Highway 53 Virginia to Eveleth project (State Project #6918-80) and concurrence with the identification of the selected alternative (Concurrence Point 3). The DEIS describes the environmental impacts associated with the proposed State Project (SP) that addresses the termination of MnDOT's easement rights for the one and a half mile segment of U.S. Trunk Highway 53, from approximately 2nd Avenue West to Cuyuna Drive in the City of Virginia. The SP review area is located in the middle of the Quad Cities of the Mesabi Range of the Iron Range, which includes the cities of Eveleth, Gilbert, Mountain Iron, and Virginia, in St. Louis County, Minnesota.

DEIS Comments

We have reviewed the DEIS and have the following comments:

A 1. We would recommend that the land use information in Table ES-1 be modified to address reasonably foreseeable effects resulting from changes to surface and mineral rights within the corridor.

B 2. Pursuant to a December 19, 2014, Federal court decision, the Gray Wolf has been relisted under the Endangered Species Act as threatened. As a result, impacts to the species and its critical habitat should be evaluated as the result of the proposed project. The evaluation should ultimately be coordinated with the United States Fish and Wildlife Service.

C 3. We are requesting information about the amount and type of material to be placed in the Rouchleau Pit for the bridge construction activities.

D 4. We are requesting added transparency about the details of a permanent solution (easement terms and conditions) to protect the public investment and proposed highway infrastructure within the project corridor. It is unclear in the DEIS what scenarios may directly affect the permanency of the location, alignment, and maintenance of the proposed highway segment in the future. Under this circumstance, the land use characteristics within the review area consist of large mining operations and there are associated surface and mineral rights within the preferred Alignment E-2 corridor. We understand that there could be an associated risk for future relocation for property that cannot be purchased in perpetuity. We are requesting

Response to Comment A: Section 4.5 of the Draft EIS described the potential for future development in the area of the new intersection at 2nd Avenue and the interchange at MN 135 as limited due to the location of the mine boundary, ore formation, and topography. The Draft EIS concluded that the preferred alternative would not cause noticeable change in land use within the study area. Mining in the existing easement agreement area would commence and be active for a number of decades, which is consistent with local and regional comprehensive plans.

The Minnesota Department of Transportation (MnDOT) will purchase surface and mineral rights where needed to preserve the roadway in perpetuity. Therefore, the potential for future relocation of the roadway should be minimized, and the cost/impact of relocation would not be borne by MnDOT. The preferred alternative avoids the current permit to mine boundary, minimizing conflicts with mining. Cumulative effects of reasonably foreseeable mining are addressed in Chapter 7 of the Draft EIS. Given no new impacts have been identified, the impact summary table has not been revised for land use impacts.

Response to Comment B: MnDOT has been in coordination with the US Fish and Wildlife Service (USFWS) regarding listed species. Information and evaluation of the gray wolf has been added to Chapter 5 of the Final EIS. Correspondence with USFWS is included in **Appendix C**.

Response to Comment C: Construction of the bridge over the Rouchleau Pit will require floating barge platforms, temporary coffer dams for dewatering around the two pier locations, and silt curtain/containment devices. The quantities and detail of the pier type/size and the materials to be used will be determined during final design with input of the contractor, Construction Manager/General Contractor (CMGC), and MnDOT. Final design commenced in March 2015 and will continue through August 2015 for the bridge, with construction anticipated to start in September. Design details, to the extent they are known, have been provided to the US Army Corps of Engineers during the review of the wetland permit application.

D MnDoT to follow the Federal Highway Administration's guidance (noted in the DEIS, Page 4-12) emphasizing the protection of the public investment in transportation infrastructure.

5. The final alignment should be described in the FEIS and the final design and profile plans should be provided as appendices in the FEIS. A Straight and Curved Setback design option were being considered in the DEIS that extend from a point just north of Cuyuna Drive on the south end to approximately the point where the Mesabi Trail crosses existing
E Landfill Road just north of the Trunk Highway 135. One option should be chosen for the FEIS. Also, Alternative E-2 includes a bridge crossing the existing Rouchleau Pit. According to the DEIS, the area of evaluation across the pit may have potential for design adjustments in the alignment to accommodate currently undefined solutions to known engineering challenges (e.g., existing areas of unstable fill and bridge type noted in the DEIS, ES-10). The design adjustments should be complete for the FEIS.

6. The overall proposed impacts to special aquatic resources may need to be adjusted for the final alignment. The proposed impacts to special aquatic resources should also include
F temporary impacts and indirect impacts associated with the project. If there would be temporary or indirect impacts to special aquatic resources, we would also request information about a mitigation strategy.

Concurrence Point 3: Identification of the Selected Alternative

We have evaluated the five alignment alternatives in the DEIS to determine whether the selected alternative is the least environmentally damaging practicable alternative (LEDPA) in accordance with the Section 404(b)(1) Guidelines (40 CR § 230.10). The alternatives included: No Build Alternative, Existing U.S. 53 Alternative, Alternative M-1, Alternative E-1A, and Alternative E-2. Based on our review of the alternatives, we have determined that your selected alternative (Alternative E-2) is the LEDPA. The preferred Alternative E-2 should be carried forward as the selected preferred alternative in the FEIS. However, if substantial new information regarding the selected alternative is brought forward later in the project development
G process that affects our determination about the LEDPA, the Corps may need to revisit its decision regarding the selected alternative.

Our determination that Alternative E-2 is the LEDPA concludes Concurrence Point 3 (Identification of the Selected Alternative) of the NEPA/404 merger process. The next concurrence point is design phase impact minimization. This should include documentation of the measures taken during project design to further avoid and minimize impacts to aquatic resources. The Corps would also evaluate the appropriateness of any compensatory mitigation proposed to offset adverse impacts to waters of the United States, including wetlands.

Any subsequent Corps' permit evaluation would include a determination whether it is contrary to the public interest (33 CFR § 320.4). We would complete an evaluation of the probable impacts, including cumulative impacts, of the proposed activity and its intended use on the public interest. The evaluation of the probable impact that the proposed activity may have on the public interest requires careful weighing of all those factors that become relevant in each particular case. The benefits that may reasonably be expected to accrue from the proposal must be balanced against its reasonably foreseeable detriments. We may request further information or clarification during the review to complete the public interest review.

Response to Comment D: MnDOT is in the process of negotiating acquisition of surface and mineral (ferrous) rights for the right-of-way needed to preserve the roadway in perpetuity via fee acquisition and permanent easement. Acquiring both the surface and mineral rights means that MnDOT cannot be forced to move the new roadway. It is possible that a mining company could offer to buy the surface and mineral rights under the new road alignment and pay to relocate the road, but MnDOT would have to choose to accept that arrangement. MnDOT's cost estimates included estimated values for acquiring mineral rights via permanent easement.

Response to Comment E: The refined alignment for the preferred alternative is described in Chapter 2 of the Final EIS. The Straight Option is now included as part of the preferred alternative. **Appendix B** provides the current layout and profile. Final design commenced in March 2015, and design adjustments will continue through the end of the year and into 2016, resulting in two construction packages, one for the large bridge and one for the remainder of the project work.

Response to Comment F: A Level 2 delineation has been conducted and used to further refine wetland impact quantities and update the permit application. Temporary wetland impacts have been identified in the permit application/wetland replacement plan submitted to the USACE (**Appendix F**). No indirect impacts to wetlands or other aquatic resources have been identified as a result of this project.

Response to Comment G: MnDOT appreciates the US Army Corps of Engineers concurrence on the preferred alternative. It will continue coordination with the Corps regarding the final impact assessment and mitigation plan, including the final step in the NEPA/Section 404 concurrence process (Concurrence Point #4).

Operations Division
Regulatory Branch (2011-00769-DWW)

If you have any questions, please contact Daryl W. Wierzbinski in our Duluth office at (218) 720-5291 Ext 35401 or daryl.w.wierzbinski@usace.army.mil. In any correspondence or inquiries, please refer to the Regulatory number shown above.

Sincerely,

Chad Konickson
Chief, Regulatory Branch

Copy furnished:
Virginia Laszewski, EPA, District 5 Chicago, IL
Phil Forst, FHWA, St. Paul, MN
Andrew Horton, USFWS, Bloomington, MN
Sarma Straumanis, MnDoT, St. Paul, MN
Jim Brist, MPCA, St. Paul, MN
Allyz Kramer, SEH, Duluth, MN

11.2 US Department of Interior

United States Department of the Interior

OFFICE OF THE SECRETARY
Office of Environmental Policy and Compliance
Custom House, Room 244
200 Chestnut Street
Philadelphia, Pennsylvania 19106-2904

IN REPLY REFER TO:

February 2, 2015

9043.1
ER 14/0799

Ms. Brenda L. Red Wing
Acting Division Administrator
Federal Highway Administration
380 Jackson Street, Suite 500
St. Paul, MN 55101

Dear Ms. Red Wing:

As requested, the Department of the Interior (Department) has reviewed the Draft Environmental Impact State (EIS) prepared by the Federal Highway Administration (FHWA) for the U.S. Highway 53 Project from 2nd Avenue West in Virginia to Cuyuna Drive, St. Louis County, Minnesota. The Department offers the following comments and recommendations for your consideration.

Section 4(f) Comments

A

This document considers effects to properties identified in the project study area as eligible to be considered under Section 4(f) of the Department of Transportation Act of 1966 (codified at 49 U.S.C. 303§ 771.135) associated with the U.S. 53 Project (Project), St. Louis County, Minnesota. The Project is in response to a 1960 easement agreement between the Minnesota Department of Transportation (MnDOT) and United Taconite (UTAC) that MnDOT would vacate their right-of-way if UTAC exerted their pre-existing mining rights. The Project consists of approximately one and one-half mile of road right-of-way. The project considered several avoidance and minimization alternatives, and settled on a No-Build Alternative (easement area closed, reroute traffic on other existing roads), a no action (the existing highway remains open), and three build alternatives which assume the construction of a new four lane highway on a new alignment.

The evaluation, prepared for the Federal Highway Administration (FHWA) and the co-lead MnDOT, considered the impacts to several recreational resources; the Mesabi Trail which is located partly on School Trust Land and partly on private land; the Iron Range Off-Highway Vehicle Recreation Area – Virginia Site (Iron Range OHVRA), located on either side of Landfill Road; the Trail Hawks Snowmobile Club Trail Spur on private lands; and Southside Park, a city-owned property in the city of Virginia. Of the properties mentioned, only the Iron Range OHVRA portion east of the Landfill Road that is on state-owned land designated for recreation use, and Southside Park in Virginia, were considered Section 4(f) properties. FHWA and MnDOT have concluded that the impacts to the Iron Range OHVRA portion eligible under 4(f)

will be *de minimis*, and there will be no taking of property or impacts to Southside Park from any of the proposed alternatives.

A

The Department would concur with the FHWA and the MnDOT on their determination there are no impacts to the one recreational resource, and to the *de minimis* determination.

The Department has a continuing interest in working with the FHWA and the MnDOT to ensure impacts to resources of concern to the Department are adequately addressed. For issues concerning section 4(f) resources, please contact Regional Environmental Coordinator Nick Chevance, Midwest Region, National Park Service, 601 Riverfront Drive, Omaha, Nebraska 68102, telephone 402-661-1844.

We appreciate the opportunity to provide these comments.

Sincerely,

Lindy Nelson
Regional Environmental Officer

cc: NPS, Nicholas Chevance

Response to Comment A: MnDOT appreciates the Department of Interior reviewing the de minimis determination. It has been noted in the Final EIS that there will be negligible impacts to the activities, features, and attributes of the Iron Range Off-Highway Vehicle Recreation Area (OHVRA), a Section 4(f) resource, consistent with a de minimis determination.

11.3 US Environmental Protection Agency

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5
77 WEST JACKSON BOULEVARD
CHICAGO, IL 60604-3590

JAN 28 2015

REPLY TO THE ATTENTION OF:

E-19J

Phil Forst
Environmental Specialist
Federal Highway Administration
380 Jackson Street, Suite 500
St. Paul, Minnesota 55101-4802

Pat Huston
Project Manager
Minnesota Department of Transportation - District 1
1123 Mesaba Avenue
Duluth, Minnesota 55811

Re: US Highway 53 Virginia to Eveleth, St. Louis County, Minnesota, Draft Environmental Impact Statement (DEIS), dated December 2014. (CEQ No.: 20140363)

Dear Mr. Forst and Mr. Huston:

The U.S. Environmental Protection Agency (EPA) has reviewed the above-referenced document dated December 2014 prepared by the Federal Highway Administration (FHWA) and Minnesota Department of Transportation (MnDOT) for the US Highway 53 (US 53) project. This letter with enclosure provides EPA's comments on the Draft Environmental Impact Statement (DEIS) pursuant to our authorities under the National Environmental Policy Act (NEPA), the Council on Environmental Quality's NEPA Implementing Regulations (40 CFR 1500-1508), Section 309 of the Clean Air Act, and Section 404 of the Clean Water Act (CWA).

The DEIS describes and evaluates alternatives to address the pending termination of easement rights (May 2017) for a one and a half mile segment of the US 53 corridor where it crosses the United Taconite open-pit mine between Virginia and Eveleth, Minnesota. Five potential alternative alignments are evaluated in the DEIS: No Build Alternative, Existing US 53 Alternative, Alternative M-1, Alternative E-1A, and Alternative E-2. The DEIS identifies Alternative E-2 as the FHWA/MnDOT preferred alternative.

The cooperating agencies were not provided a preliminary version of the DEIS to review. However, EPA concurred with the preliminary alternatives FHWA/MnDOT proposed for analysis in the DEIS in our letters dated July 17, 2013 and October 30, 2013. As a cooperating agency and participant in the NEPA/CWA Section 404 merger process for the US 53 project, EPA also reviewed the Agency Review Draft of the Scoping Decision/Draft Scoping Decision

Document (SD/DSDD) and provided comments in our letter dated February 9, 2012. EPA concurred with the project Purpose and Need in our letter dated September 2, 2011.

Based on our review of the DEIS, EPA has developed comments and recommendations pertaining to the comparison of alternatives, the DEIS-identified preferred alternative and alternative options, and wetlands, water quality/quantity/stormwater, noise impacts, forests, northern long-eared bat, climate change, construction impacts, greenhouse gas emissions, noise, and mitigation. We have enclosed our detailed comments. Based on our analysis, EPA rates the DEIS "Environmental Concerns – Insufficient Information" (EC-2). Please see the enclosed "Summary of Rating Definitions."

The FHWA/MnDOT Agency and Public Coordination Plan (version 3, 2014) for this project identifies that FHWA intends to issue a combined Final Environmental Impact Statement (FEIS) and Record of Decision (ROD). The DEIS identifies that the FEIS and ROD are expected in fall 2015. EPA looks forward to your responses to our DEIS comments and further discussions with you and the Corps of Engineers (USACE) regarding upcoming concurrence point (CP) #3 – Preferred Alternative and CP#4 – Mitigation prior to finalizing the FEIS/ROD.

Please provide me with one (1) hard copy and five (5) CDs of the FEIS/ROD when available. If you have any questions regarding our comments, please contact Virginia Laszewski of my staff at (312) 886-7501 or by email at laszewski.virginia@epa.gov.

Sincerely,

Kenneth A. Westlake
Chief, NEPA Implementation Section
Office of Enforcement and Compliance Assurance

Enclosures (2): 1. Summary of Rating Definitions, 2. EPA Detailed DEIS Comments

cc: Daryl Wierzbinski, U.S. Army Corps of Engineers, Regulatory Project Manager, Two Harbors Field Office, 1554 Highway 2, Suite 2, Two Harbors, MN 55616
Andrew Horton, U.S. Fish and Wildlife Service, Twin Cities ES Field Office, 4101 American Blvd East, Bloomington, MN 55425-1665
David Dominguez, FHWA (david.dominguez@dot.gov)
Nancy Frick, MnDOT (nancy.frick@state.mn.us)
Peter Leete, Minnesota Department of Natural Resources (MnDNR) (peter.leete@state.mn.us)
Jennie Ross, MnDOT (jennie.ross@state.mn.us)
Sarma Straumanis, MnDOT (sarma.straumanis@state.mn.us)
Jim Brist, Minnesota Pollution Control Agency (MnPCA) (jim.brist@state.mn.us)

EPA Detailed Comments on the FHWA/MnDOT US Highway 53 Virginia to Eveleth Draft Environmental Impact Statement (DEIS) (December 2014) (CEQ No.: 20140363)

PURPOSE AND NEED
EPA concurred with the purpose and need presented in the DEIS for the US 53 project in our letter dated September 2, 2011.

ALTERNATIVES
EPA concurred with all alternatives that undergo detailed analysis in the DEIS in our letters dated July 17, 2013 and October 30, 2013.

1) **No-Build (Closure of the Easement Segment of US 53) Alternative:** This alternative would close the easement segment of US 53, resulting in traffic being rerouted to other existing highways.
2) **Existing US 53 Alternative:** This alternative would keep US 53 where it is and open to traffic by addressing the economic, legal, and engineering issues associated with resolving the terms of the easement agreement with United Taconite (UTAC).
3) **Alternative M-1:** This new four-lane roadway alignment southwest of the existing US 53 segment would mostly follow the grade created by the now backfilled Auburn Pit through the active UTAC Mine.
4) **Alternative E-1A:** This new four-lane roadway alignment would cross the Rouchleau Pit northeast of the existing US 53 segment. E-1A goes through UTAC permit-to-mine and environmental setting boundaries. Two options were considered for Alternative E-1A: 1) RSS (Reinforced Soil Slope) Option and 2) Bridge Option.
5) **Alternative E-2:** This new four-lane roadway alignment would be north of Alternative E-1A. A bridge would cross the Rouchleau Pit at one of the narrow openings. Alternative E-2 is located outside the UTAC permit-to-mine and environmental settings boundaries. Four options were considered for Alternative E-2: Curved Setback Option, Straight Option, Intersection Option, and Interchange Option.

COMPARISION OF ALTERNATIVES
Summary of Environmental Impacts (with mitigation) - Table ES-1 (pp. ES-11 to ES-19) **and Table 10.2-2** (pp. 10-4 to 10-12): These two tables have the same information; however, they do not include the Existing US 53 Alternative. Therefore, the Existing US 53 Alternative is not provided the same level of comparison as the other DEIS alternatives that are included in these tables. A

Recommendation: We recommend the Existing US 53 Alternative and the results of its analysis be included in Table ES-1 and Table 10.2-2.

3

Response to Comment A: A reformatted summary table of Draft EIS alternatives and impacts is included in **Appendix H** as requested, which adds a column for the Existing US 53 Alternative. It was clearly noted in the Draft EIS as an introduction to the tables in question that the Existing US 53 Alternative had no resource impacts except the cost to buy mineral rights and thus was not included in the table.

In addition, information in these tables regarding acreage impacts (e.g., wetlands, forest) associated with each of the four (4) options for Alternative E-2 are not displayed under separate E-2 sub-columns for quick identification. Impact acreage numbers associated with a particular option may be indirectly identified. For example, under Wetlands Impacts (pp. ES-15 and 10-8), instead of showing 9.4 acres for wetland impacts for the E-2 Curved Setback Option, it states the following: *"Curved Setback Option: Potential to impact an additional 2.4 acres of wetland compared to the Straight Option".*

B

Recommendation: We recommend Table ES-1 and Table 10.2-2 include separate sub-columns under Alternative E-2 where impacts are identified for each option in a comparative format. The various impact acreage numbers associated with each Alternative and Alternative options should be clearly identified.

PREFERRED ALTERNATIVE

2.4 Selection of a Preferred Alternative (pp. 2-17 to 2-18) and **10.3 Selection of a Preferred Alternative** (pp. 10-13 to 10-18): The DEIS identifies Alternative E-2 with a compressed diamond interchange between US 53 and MN 135 as the preferred alternative. According to the DEIS, *"Alternative E-2 includes a 1,300-foot bridge with 180-foot or taller bridge piers within the Rouchleau Pit. Both the Straight Option and Curved Setback Option are being carried forward with the preferred alternative for further refinement: however, one will be identified as the selected option in the Final EIS based on public and agency comment, refinement of design, and overall environmental impacts."*

C

Recommendation: EPA supports the Straight Option because it impacts fewer acres of forest and wetland resources than the Curved Setback Option.

The alignment of Alternative E-2 is expected to encounter an unmined area of the Biwabik Iron Formation that contains mineral resources.

D

Recommendation: Due to the presence of mineral resources within the footprint of the DEIS preferred alternative, we recommend the FEIS clearly describe what measures are to be taken to avoid the potential for another future relocation of US 53.

3.2 Intermodal Transportation, 3.2.2.5 Alternative E-2 – Bicycles and Pedestrians (p. 3-12): The DEIS states: *"The termination of the MnDOT easement by RGGS/UTAC does not directly affect the Mesabi Trail." ". . . E-2 could include an easement along the eastern edge of the new alignment for the Mesabi Trail to be reconstructed as part of the project but funded by the St. Louis and Lake Counties Regional Railroad Authority (SLLCRRA). . . "The final design will be discussed in the Final EIS."* The E-1A and E-2 Build Alternatives are located north of existing US 53. The DEIS shows that the Mesabi Trail is also located on the north side of MN 135 and existing US 53 and does not extend south into the Midway area of Virginia.

E

Recommendation: To encourage the use of multimodal travel, we recommend

Response to Comment B: A reformatted summary table of Draft EIS alternatives and impacts is included in **Appendix H** as requested, which adds a column for the Straight and Curved Setback Options.

Response to Comment C: Comment noted. MnDOT has included the Straight Option as part of the preferred alternative.

Response to Comment D: MnDOT is in the process of negotiating acquisition of surface and mineral rights for the right-of-way needed to preserve the roadway in perpetuity via fee acquisition and permanent easement. Mineral rights are needed from three landowners including RGGS, DNR, and Penobscot Iron Ore, LLC. Acquiring both the surface and mineral rights means that MnDOT cannot be forced to move the new roadway. It is possible that a mining company could offer to buy the surface and mineral rights under the new road alignment and pay to relocate the road, but MnDOT would have to choose to accept that arrangement. MnDOT's cost estimates included estimated values for acquiring mineral rights via permanent easement.

E

FHWA/MnDOT consider adding a pedestrian/bicycle (ped/bike) path along the entire length of the 4-lane roadway build preferred alternative that is ultimately chosen in order to connect the Midway community on the east side of the mining area pits to Virginia on the west side of the mining area pits and the 115-mile long Mesabi Trail. This would also allow for a direct ped/bike path connection from Midway to Gilbert and the 23 other communities from Ely to Grand Rapids, Minnesota. Consider using vehicle and ped/bike rotaries for intersection/interchange designs. For the US 53 ped/bike access to continue south of Midway, consider working with the Trail Hawk Snowmobile Trail owners to find a feasible way to connect the existing private Trail Hawks Snowmobile Trail into a US 53 project ped/bike path.

WETLAND RESOURCES

Discrepancies in wetland impact acreages were noted throughout the document and appendices. Examples include:

F

- Page 5-28 of the DEIS states that Alternative E-2 would impact approximately 5.9 acres of wetland for the Intersection Option and 6.6 acres of wetland for the Interchange Option. However, Appendix J (page 12) states that E-2 overall wetland impacts are expected to be no more than 4.9 acres.
- Table 5.4-1 (Wetland Impacts by Alternative) proposes complete impacts to 1.0-acre Wetland 12; however, Wetland 12 was not noted in the summary of proposed wetland impacts in Appendix J for Alternative E-2.
- Table 5.4-1 proposes impacts to 0.01 acres of Wetland 45; however, Wetland 45 was not noted in the summary of proposed wetland impacts in Appendix J for Alternative E-2.
- Table 5.4-1 proposes impacts to 1.9 acres of Wetland 24; the summary of impacts in Appendix J states impacts to Wetland 24 will be 1.87 acres.
- Table 5.4-1 proposes impacts to 0.30 acre of Wetland 25; the summary of impacts in Appendix J states impacts to Wetland 25 will be 0.09 acre.
- Table 5.4-1 proposes impacts to 0.9 acre of Wetland 26; the summary of impacts in Appendix J states impacts to Wetland 26 will be 0.75 acre.
- Table 5.4-1 proposes impacts to 0.02 acre of Wetland 28, the summary of impacts in Appendix J states impacts to Wetland 28 will be 0.01 acre.
- Table 5.4-1 proposes impacts to 0.03 acre of Wetland 29; the summary of impacts in Appendix J states impacts to Wetland 29 will be 0.01 acre.
- Table 5.4-1 proposes impacts to 0.09 acre of Wetland 30; the summary of impacts in Appendix J states impacts to Wetland 30 will be 0.07 acre.
- Table 5.4-1 proposes impacts to 0.3 acre of Wetland 32; the summary of impacts in Appendix J states impacts to Wetland 32 will be 0.28 acre.
- Table 5.4-1 proposes impacts to 0.2 acre of Wetland 43; the summary of impacts in Appendix J states impacts to Wetland 32 will be 0.18 acre.
- Table 5.4-1 proposes impacts to 0.07 acre to Wetland 44; the summary of impacts in Appendix J states impacts to Wetland 44 will be 0.08 acre.

Response to Comment E: Since the Draft EIS was published, there has been further coordination between MnDOT, DNR, and SLLCRRA regarding the future Mesabi Trail alignment in order to facilitate trail continuity between the severed trail sections that would result from mining activity in the easement agreement area. MnDOT has made allowance for the future Mesabi Trail to parallel the new US 53 alignment between the new Landfill Road access and the existing trail segment west of the Rouchleau Pit. As described in the Final EIS (Section 2.3.1), the Mesabi Trail connection has been identified on an old railroad corridor owned by SLLCRRA that would fill the remaining gap in the trail between the new and old Landfill Road access points. The realigned Mesabi Trail would accommodate pedestrians, bicycles, and snowmobiles. Two box culverts will also be constructed by MnDOT as part of this project to provide grade separation for the new trail crossings at MN 135 and at Landfill Road.

F

Recommendation: EPA recommends that wetland acreage impact summaries be verified and that references throughout the FEIS and appendices be amended to provide the same information throughout the documents.

G

Table 5.4-1 (Wetland Impacts by Alternative) reports some wetland acreages/expected acreages of impact in tenths of an acre, and some in hundredths of an acre. These numbers vary from numbers provided in Appendix J impact summaries. Examples include:

- Table 5.4-1 states impacts to Wetland 24 are expected to be 1.9 acres; Appendix J accounts for this impact as 1.87 acres.
- Table 5.4-1 states impacts to Wetland 32 are expected to be 0.3 acre; Appendix J accounts for this impact as 0.28 acre.
- Table 5.4-1 states impacts to Wetland 43 are expected to be 0.2 acre; Appendix J accounts for this impact as 0.18 acre.

Recommendation: EPA recommends that wetland acreage numbers (size, impact, etc.) be specified to the hundredth of an acre in all locations throughout the document and appendices. Specifications to the hundredth of an acre are more accurate.

H

Table 5.4-1 (Wetland Impacts by Alternative) accounts for the interchange option associated with Alternative E-2 (preferred alternative) and only for the Straight Option. The DEIS states under the table, "*For Alternative E-2, the Straight Option is represented in the table. The Curved Setback Option would result in 2.4 acres of additional wetland impact, primarily to Wetland 32.*" Since a selection has not been made between the Straight Option and the Curved Setback Option, FHWA should have included referenced the E-2 column impacts as "Interchange Option/Straight Option" and included a second E-2 column with impacts for the "Interchange Option/Curved Setback Option." This would allow for reviewers to discern the differences in wetland impacts associated with options still under study.

Recommendation: Modify Table 5.4-1 to include the impacts associated with all alternatives that were carried forward, including information discerning between sub-options of alternatives.

I

Comparing Figure 5.4-1 (Wetlands) to Figure 5.5-3 (Potential Stormwater Ponds for E-2), it appears that a stormwater basin is proposed to be constructed in Wetland 36. Another appears to be proposed in the vicinity of impacted portions of Wetland 24.

Recommendation: Natural wetlands should not be used as pollution prevention devices. All detention basins should be sited outside of existing natural wetlands. The FEIS should discuss the siting and locations of detention basins and clarify if wetlands are, or are not, proposed to be used as detention.

Response to Comment F: Section 5.5 of the Final EIS identifies the latest estimate of wetland impact based on changes to the preferred alternative, Level 2 delineation, and minor changes to the construction limits. As a result of project changes between the time the Water Resources Technical Report (November 2013) and Draft EIS (December 2014) were completed, neither document provides accurate estimates at this time. Thus, rather than repeating outdated information, Section 5.5 of the Final EIS presents wetland impact estimates that were submitted to the US Army Corps of Engineers as part of the Section 404 permit application in June 2015 and supplemental information in August 2015.

Response to Comment G: Table 5.5-1 in the Final EIS presents the acres of wetland impact to two decimal places.

Response to Comment H: A reformatted summary table of Draft EIS alternatives and impacts, including wetland impacts, is included in **Appendix H**, as requested.

Response to Comment I: Consistent with state and federal requirements, wetlands have not and will not be proposed for use as stormwater pollution prevention devices.

Figure 5.4-1 (Wetlands) shows wetland impacts associated with each alternative. However, the scale is too small, and the overlap of the various alternatives too great, to determine each alternative's impacts to specific wetlands. As an example, Wetlands 26, 43, 44, and 45 appear fully impacted by Alternative E-2 in this figure, but when comparing this Figure to Table 5.4-1 (Wetland Impacts by Alternative), the Table does not show them as being fully impacted. J

Recommendation: In the FEIS, break Figure 5.4-1 into several smaller, zoomed-in figures that show wetland acreage impacts, the wetland number, acreage of impact, and acreage remaining.

Placement of fill materials into Waters of the U.S. will require that the project comply with the Section 404(b)(1) guidelines under the Clean Water Act. These guidelines are summarized as follows:

- Least Environmentally Damaging Practicable Alternative (LEDPA) – There must be no practicable alternative to the proposed discharge (impacts) which would have less adverse impacts on the aquatic ecosystem, so long as the alternative does not have other significant adverse environmental consequences;
- No Violation of Other Laws – The proposed project must not cause or contribute to violation of state water quality standards or toxic effluent standards, and must not jeopardize the continued existence of federally-listed endangered or threatened species or their critical habitat(s);
- No Significant Degradation – The project must not cause or contribute to significant degradation of Waters of the United States; and
- Minimization and Mitigation of Adverse Impacts – The project must include appropriate and practicable steps to avoid impacts to regulated Waters of the United States. Where impacts are unavoidable, there must be documentation on how impacts have been minimized. Finally, compensatory mitigation to offset unavoidable, minimized impacts to the aquatic ecosystem must be provided. K

Recommendations: An alternatives analysis for prudent and feasible alternatives should be conducted for proposed impacts to all Waters of the United States, including wetlands. The 404(b)(1) analysis should be included in the FEIS. Examination of alternatives should include project modifications that fulfill the stated project purpose and result in no impacts to existing Waters of the U.S., or modifications to the project that would minimize impacts to best maintain the functions, values, and habitat of the existing waters. Such alternatives should address options such as modifying the project to reduce required fill amounts, use of more environmentally-beneficial project, and project components that support and improve the existing aquatic ecosystems. Feasible and prudent alternatives should also take into consideration the costs, existing technology, logistics of the project, and requirements for mitigation under Clean Water Act Section 404(b)(1) guidelines. EPA requests that the FEIS include the following:

- A robust discussion of Clean Water Act Section 404/401 permitting, including a discussion on Section 401 Water Quality Certification requirements;

Response to Comment J: See the explanation of the areas of evaluation in Section 2.3.5 of the Draft EIS that explains why impacts in the table may not match the potential impact areas shown within the areas of evaluation on Figure 5.4-1 of the Draft EIS. The scale of the figure will not change how the impacts are shown. Figures 4-1 through 4-17 in Volume 2 of the permit application (see Appendix F), which was submitted with the US Army Corps of Engineers permit application, illustrate the current estimated impact of the preferred alternative.

- A robust discussion about how the sequencing established by the Clean Water Act Section 404(b)(1) guidelines has been applied, namely, avoidance first, then demonstration of impact minimization, then mitigation for unavoidable, minimized impacts;
- Project modifications as noted above; and
- A robust discussion of any proposed mitigation, including mitigation sequencing. The compensatory mitigation plan prepared to compensate for any unavoidable impacts should follow applicable USACE St. Paul District guidance including the St. Paul District Policy for Wetland Compensatory Mitigation in Minnesota (dated January 2009) and the St. Paul District public notice addressing the compensatory mitigation siting sequence for impacts to wetlands in Northeastern Minnesota (dated March 9, 2012), as well as USACE's 2008 Mitigation Rule (33 CFR 332).

K

SURFACE WATER / WATER QUANTITY AND QUALITY / STORMWATER

5.5 Surface Water/Water Quantity and Quality (p. 5-31): The first paragraph states: ***"NOTE TO READER:*** *Water resource-related issues are discussed in a number of different sections in this chapter of the Draft EIS. To facilitate cross-referencing coverage of water resources issues, the summary of topics and Draft EIS sections in the call out box may be useful."* The "call out box" identifies Sections 5.2, 5.3, 5.4 and 5.5 as Water Resource Related Sections. However, a more detailed description of the existing stormwater drainage system is identified in Section 5.1 Utilities in Sub-section 5.1.2 Existing Conditions, City of Virginia (Sanitary Sewer and Storm Sewer) and Table 5.1.2. Summary of US 53 Corridor Utilities' Proposed approach to Relocation.

L

Recommendation: EPA recommends the "call out box" under Section 5.5 also refer the reader to Section 5.1 Utilities for information regarding the existing stormwater drainage system.

Chapter 5, Section 5.5.1.1 (p. 5-31): Paragraph 2 states, *"Section 303(d) of the Clean Water Act requires states to assess all waters to determine if they meet water quality standards and conduct total maximum daily load (TMDL) studies in order to set pollutant reduction goals. Areas of the project with outlets within one mile of and that flow to MPCA-designated impaired or special waters must incorporate additional Best Management Practices (BMPs), including a stricter stormwater treatment requirement. Impaired waters within one mile of the study area have been identified; however, none of these waters would be stormwater receiving waters for this project."*

M

Manganika Lake is the ultimate receptacle of all stormwater runoff from this project. Minnesota Adm. Rule 7050.0470 lists the classifications for surface waters in major drainage basins within the state. Manganika Creek is a MN Class 7 (as well as 3C, 4A, 4B, 5, 6) surface water (MN Adm. Rule 7050.0227, Limited Resource Value Water), and Manganika Lake is a MN Class 5 (2B, 3B, 4A, 4B, 6) waterway (MN Adm. Rule 7050.0225, Aesthetic Enjoyment and

Response to Comment K: The requested information has been submitted to the US Army Corps of Engineers (March and June 2015) for review and to determine jurisdiction. That application information is included in **Appendix F**.

Response to Comment L: The Draft EIS document is being updated via this condensed Final EIS; therefore, a revised call out box is not included. However, a reference has been added to the beginning of Chapter 5 referring the reader to the various water-resource related sections, including the utilities section.

Navigational Use). According to the MPCA 2014 listing of impaired water bodies, Manganika Lake is currently listed as impaired due to excess nutrients, eutrophication, and biological indicators (i.e., limited species diversity—indicative of a polluted condition).

M

> **Recommendation:** EPA recommends the sentence in **Section 5.5.1.1** indicating that "none of these waters would be stormwater receiving waters for this project" be modified in such a manner to acknowledge the State water quality designations for and the current impaired conditions of Manganika Creek and Manganika Lake.

Section 5.5.3.5 (p. 5-34): As written in this section, *"Per NPDES requirements, treatment of stormwater is not required based on the net change in impervious surface area for the project."* That is, (per para 2): The E-2 Alternative "Intersection Option" is forecast to result in a net decrease in impervious area of [approximately] 3 acres; while the E-2 Alternative "Interchange Option" is forecast to result in [approximately] no change. There are seven stormwater treatment ponds proposed for final highway runoff.

EPA understands that the area designated for construction will have the appropriate MN Construction Stormwater Permits (per **Sections 5.5.4.1** and **5.16.1.9**). However, according to Section 7.2.3.7 in the Cumulative Impacts Chapter of the DEIS, there will likely be an increase in impervious surface area due to *"future mining expansion and highway and development projects."*

There will be greater probability of surface runoff at least until the new roadway is built and the current US 53 is deconstructed. The DEIS acknowledges a construction stormwater permit will be issued for this project. If the current US 53 is retained in some form, there likely will be more

N

impervious roadway, not less. If mining proceeds in the easement area, and further development occurs, EPA anticipates there will be more impervious roadway, not less (**Section 7.2.3.7**). FHWA/MnDOT recommend Alternative E-2 as the preferred alternative, which appears to be nearly twice as long as the existing segment of US 53, suggesting a potential increase in impervious area. Ultimately, Manganika Lake is the receptacle of all stormwater runoff (see previous comment on **Section 5.5.1.1**). Manganika Lake is currently listed as impaired due to excess nutrients, eutrophication, and biological indicators (i.e., limited species diversity—indicative of a polluted condition), and MnDOT indicates high levels of methyl mercury.

> **Recommendations:** EPA recommends that FHWA/MnDOT acknowledge in the FEIS the current status of impairment for Manganika Lake, into which all stormwater will flow. We recommend the potential incorporation of BMPs or other mitigation measures into stormwater pond design be addressed in **Section 5.5.3.5**, as a long-term pollution prevention strategy for the region, given the likely increase in development and mining activity. A surface water pollution prevention plan (SWPPP) may be required for runoff directed to Manganika Creek. EPA recommends acknowledging the same in **Sections 5.5.4.2** and **7.2.3.7**.

Response to Comment M: This modification is noted in Section 5.6 of the Final EIS. Manganika Lake does not receive all of the surface water runoff from the project area, and the preferred alignment is not expected to exacerbate the existing impairments that the MPCA has identified for the lake.

Response to Comment N: This modification is noted in Section 5.6 of the Final EIS. A SWPPP will be prepared for the project, including the disturbed area that is tributary to Manganika Lake and Creek.

5.5.2 Existing Conditions (p. 5-32): Existing drainage patterns are briefly discussed and the reader is referred to Figure 5.1-1 Known Location of Municipal Utilities in the Study Area for a depiction of the existing stormwater drainage system and direction of flow in the project area. While Figure 5.1-1 may show the City of Virginia's existing Stormwater Drainage System, it does not show existing stormwater flow patterns for some areas associated with some of the DEIS alternatives. For example, Figure 5.1.1 does not show all existing drainage patterns

O associated with the M-1 and E-2 Alternatives. In addition, the Figure 5.1.1 does not show the existing drainage patterns for MN 135 east of the intersection of Landfill Road and existing US 53. The existing drainage pattern for the Midway area of Virginia is not discussed or identified in Figure 5.1-1.

> **Recommendation:** We recommend the existing stormwater drainage patterns and directions of flow be fully identified and discussed in the FEIS, and depicted on Figure 5.1-1 or other appropriate FEIS figure.

5.5.3 Environmental Consequences (p. 5-32): *"Under all alternatives, the stormwater drainage way east of the Rouchleau Pit and north of the Midway area that flows parallel to and along the north side of US 53 would remain after MnDOT vacates the existing easement agreement area. See Chapter 7: Cumulative impacts regarding cumulative stormwater impacts due to mining operations."* The Cumulative Impacts Chapter of the DEIS (p. 7-6) states, *"Under the Existing US 53, M-1, E-1A, or E-2 Alternatives, mining by UTAC of the pit crossing areas would cut off the stormwater east of the Rouchleau Pit that currently crosses along the north side of US 53, requiring rerouting of this flow to another receiving water. These projects would be subject to state and federal requirements."*

P Potential stormwater pond locations for the M-1, E-1A and E-2 alternatives are identified in the DEIS (Figures 5.5-1, 5.5-2, 5.5-3). The DEIS does not identify what would happen to the stormwater associated with any of the DEIS alternatives and the existing drainage patterns on the east side of the pits once existing US 53 is removed, and during and after mining operations through the existing US 53 easement area.

> **Recommendation**: We recommend that the FEIS identify, discuss and depict on a figure or figures the proposed stormwater drainage system, directions of flow and potential receiving water/s for stormwater associated with the FEIS preferred alternative. The discussions should cover and the figures should show conditions before, during and after mining operations through the easement area.

NOISE

4.6.3.5 Alternative E-2: The DEIS (p. 4-48) states, "*Mitigation for noise impacts could include use of noise barriers in areas where feasible and reasonable (i.e., Area C and, with the Curved*

Q *Setback Option, Area F), and benefited receptors (homes or other land uses sensitive to noise) would vote on the noise barrier, including those owned or rented by environmental justice residents . . ."*

Response to Comment O: Figure 5.5-2 has been added to illustrate existing flow patterns, which have been updated since the Drat EIS.

Response to Comment P: Existing and proposed drainage area mapping has been prepared (see **Figure 5.5-2** and **Appendix B**, respectively). Mining excavation of the existing alignment will ultimately change the drainage conditions such that stormwater is conveyed into the one or both of the pits. As a result, that stormwater would be managed in conformance with the mining operations' industrial stormwater permit.

Q

Recommendation: We recommend the FEIS disclose how MnDOT will inform owners and residents/renters that are directly impacted by increases in noise levels that they may vote for noise barriers for areas where MnDOT has determined that noise barriers are feasible and reasonable (i.e., Are C and, with the Curved Setback Option, Area F). Describe how and when the voting process is conducted and the steps MnDOT will take to insure that all affected owners and renters are well informed regarding noise impacts and how to exercise their opportunity to vote regarding noise barrier mitigation.

VEGETATION / FOREST IMPACTS / T &E SPECIES / CLIMATE CHANGE

R

Table 5.9-1 Acreage of Cover Types within Study Area Before and After Construction by Alternative (p. 5-62): This table does not provide acreage impacts associated with the Curved Setback Option for Alternative E-2. According to information found elsewhere in the DEIS, the E-2 Curved Setback Option has 9 acres of wetland impacts, 43 to 47 acres of wooded/forest impacts, and 9 acres of Shrub/Grassland impacts.

Recommendation: EPA recommends FEIS Table 5.9.1 provide a separate column for the E-2 Curved Setback Option and report impacts accordingly.

S

Forests provide wildlife habitat and protect surface and groundwater quantity and quality in the watershed, in part, by stabilizing the soil and providing a permeable surface for water infiltration. In addition, it is not clear whether some trees associated with the potential forest losses are currently used or could be used in the future as maternity roosts for the northern long-eared bat (proposed for federal listing as an endangered species in all 87 Minnesota counties).

Recommendation: We recommend MnDOT undertake voluntary upland forest mitigation to compensate for the loss of 43 to 47 acres of wildlife habitat and reduced water quality protection in the watershed associated with the US 53 project.

5.11 Threatened and Endangered Species

T

Northern Long-Eared Bat *(Myotis septentrionalis)* (p. 5-67 and p. 5-68): The DEIS states, *"In order to accurately assess the potential for project-related impacts to this species, MnDOT is working with the USFWS (US Fish and Wildlife Service and the DNR (Minnesota Department of Natural Resources). Field investigations were conducted in the summer/fall of 2014 and review of findings is underway. The DNR report is not yet finalized; however, discussion with DNR staff indicates that the northern long-eared bat echolocation calls were recorded at each sampling station in the study area (see Figure 5.11-2). The DNR study also identified a mine void in the study area that could be a potential bat hibernaculum (see Figure 5.11-3 for approximate cave location). . . . The information gathered is informing the assessment of the potential for jeopardy/effect. Updated results of studies and on-going coordination will be included in the Final EIS."*

Recommendations: In addition to the FEIS including an update of the results of the northern long-eared bat studies, EPA recommends the FEIS also identify any USFWS

Response to Comment Q: Notices and ballots were mailed to benefited receivers on February 18, 2015, with notice of a public open house to be held on March 5, 2015. The City of Virginia also distributed flyers door-to-door regarding the open house for the benefited receivers. Additional effort was made to reach residents and owners of properties that did not respond to mailed ballots. MnDOT conducted door knocking on two separate occasions and hand delivered ballots to unresponsive properties. For properties that were vacant, extra effort was made to reach out to property owners in order to obtain a partial vote for the property.

Refinements of the noise analysis during the project development process show that an additional seven properties along the south end of Mesabi Drive will receive a noise benefit from the proposed noise wall. As a result, a second open house was held on August 3, 2015 for these benefited receivers and each was given the opportunity to vote on whether they want a noise wall.

With the refined analysis, MnDOT also determined that four parcels previously identified as benefitted receivers would not benefit from the proposed noise barrier design. These receivers were also notified that their voting status had changed.

The letter notification, ballot, benefitted receiver maps, open house flyer, and voting results are included in Appendix G. Further details regarding the noise assessment update and notification/voting process are described in Section 5.8 of the Final EIS.

Response to Comment R: The Curved Setback Option has been dismissed since the Draft EIS was published. Impacts of the Curved Setback Option can be seen in the reformatted summary table of Draft EIS alternatives and impacts included in Appendix H. The estimated vegetation impacts of the preferred alternative are described in Section 5.10 of the Final EIS.

Response to Comment S: MnDOT will follow the guidance of the USFWS with regard to tree removal as it relates to the northern long-eared bat. The majority of land in the project vicinity not in urban or wetland use is in forest vegetation. Therefore, there would be minimal benefit to wildlife and/or water quality from MnDOT voluntarily planting trees in the project vicinity.

T and/or MnDNR suggested/recommended measures that could be taken to avoid, minimize and/or compensate for potential adverse impacts to the bat from the proposed US 53 project.

5.15 Climate Change

The DEIS does not identify and discuss how the proposed US 53 project may be affected by events associated with climate change. For example, the increased frequency and intensity of precipitation events have been associated with climate change. This might affect how the project is designed, constructed, and operated to handle stormwater.

U **Recommendation:** We recommend that the FEIS identify and discuss any anticipated effects of climate change on the project and possible adaptation measures. For example, discuss any effects that predicted increases in the number and/or intensity of precipitation events associated with climate change may have on sizing bridge spans, culvert openings, and stormwater management measures in order to accommodate such events and ensure project longevity, public health, and safety.

CONSTRUCTION IMPACTS

Air Quality/Greenhouse Gas Emissions: The project is expected to comply with applicable air quality standards. However, the DEIS does not explain how the project will reduce or minimize air emissions, including greenhouse gas (GHG) emissions, during the construction phase.

V **Recommendation:** We recommend FHWA/MnDOT commit to implementing clean diesel strategies to the maximum extent possible during the construction phase. Examples include an anti-idling policy for internal combustion engines and the use of diesel construction equipment with lower emissions characteristics.

Response to Comment T: New information from the northern long-eared bat study has been added to Section 5.12 of the Final EIS. MnDOT will follow the guidance of the USFWS with regard to tree removal as it relates to the northern long-eared bat.

Response to Comment U: Impacts of the preferred alternative on climate change are discussed in Section 5.16. As discussed in Section 5.6.3, detention ponds for the project have been designed per the National Oceanic and Atmospheric Administration's Atlas 14 precipitation data per MnDOT's recently changed design standard. Atlas 14 consists of updated precipitation data from weather stations nearest the project site and generally increases the design storm events for each frequency compared to previous rainfall intensity values.

Response to Comment V: While there is no current regulatory requirement to address greenhouse gas emissions in environmental documents, MnDOT is currently working with contractors on possible approaches for addressing construction equipment emissions. MnDOT will use feedback from a diesel construction equipment survey of contractors to evaluate ways to reduce construction emissions including incentives, education and outreach, promoting the use of federal grant funding for diesel retrofitting, and consideration of a pilot project to reduce idling.

11.4 Minnesota Department of Natural Resources

Minnesota Department of Natural Resources

Northeast Region • 1201 East Highway 2 • Grand Rapids MN • 55744

February 5, 2015

Pat Huston, Project Manager
MNDOT District 1
1123 Mesaba Avenue
Duluth, MN 55811

RE: U.S. Hwy 53 Virginia to Eveleth Draft Environmental Impact Statement (DEIS)

Dear Mr. Huston,

The Minnesota Department of Natural Resources (DNR) Northeast Region has reviewed the Draft Environmental Impact Statement (DEIS) for the U.S. Highway 53 Virginia to Eveleth Project. We appreciate the level of communication MNDOT has offered in the planning stages and throughout the environmental review process. We offer the following comments only as formal documentation to the ongoing communication between the two agencies.

Minerals

A DNR Lands and Minerals resource staff are working directly with MNDOT on the determination of iron resources in the project area and are in direct negotiations with your staff regarding evaluating resources managed by the State and subsequent encumbrance valuation for the proposed realignment. DNR Minerals is also working with MNDDOT on nonferrous evaluations.

Parks and Trails

As you know, your agency has been very attentive to trail interests throughout this process and DNR Parks and Trails continues to work with MNDOT and trail stakeholders on solutions. The following DNR comments are related to the Iron Range Off Highway Vehicle Recreation Area (IROHVRA) Virginia Unit and local trail connections for multiple users.

B DNR Parks and Trails have concurred with MNDOT and the Federal Highway Administration's (FHWA) determination that the highway alternatives have a *de minimus* impact to the Recreation Area under Section 4(f) rules. The preferred alternative impacts about 4.3 acres of the 2,700 acre recreation area. No mitigation is required under the FHWA Section 4(f) rules.

C For local trail connections, generally DNR recommends a road and bridge design that does not preclude motorized and non-motorized trail users the opportunity to connect from Virginia to points east and allows reasonable and managed use of the Trunk Highway (TH) 53 corridor to the extent needed. The proposed 14 foot wide trail deck on the bridge should be sufficient to accommodate winter snowmobile traffic and summer shared motorized and non-motorized use. There are traffic management details that still need to be worked out but seem manageable within the 14-foot width.

D Trail connections on either end of the bridge afford the opportunity to better separate motorized and non-motorized traffic with a 10 foot non-motorized tread way alongside a 14 foot motorized tread way. The Mesabi Trail occupies the non-motorized tread way in all cases. The snowmobile trail would remain a segment of the existing St. Louis County sponsored Grant-In-Aid system. There is not currently a formal or sponsored Off

Response to Comment A: MnDOT looks forward to reaching an agreement with the DNR on ferrous and non-ferrous resource values.

Response to Comment B: Thank you for your review and comment. Concurrence is consistent with FHWA and Department of Interior findings.

Response to Comment C: MnDOT is assessing the feasibility of a shared motorized/non-motorized trail on the bridge. A 14-foot wide shared trail on the bridge is anticipated, which will widen to a separated 8-foot paved pedestrian trail and a 12-foot gravel snowmobile/ATV trail off the bridge.

D Highway Vehicle (OHV) trail that makes this connection. We would support a Grant-In-Aid proposal to afford OHVs a safe route in and out of Virginia along TH 53.

Fisheries

E If an alternative is chosen that requires extensive dewatering to the West Two River Reservoir the DNR would appreciate early coordination to minimize potential impacts. The preferred alternative E-2 only needs limited dewatering and the discharge would go to a basin that returns water to Rouchleau Pit so this alternative has less impact to fisheries and public waters.

General clarification

F On page 5-13, the document states that the VPU also uses this water supply for its power plant turbines and for maintaining ambient temperatures in Bailey and Silver lakes, two water bodies near downtown Virginia. It is the DNR understanding that the discharge from the power plant warms Silver Lake but there is no intention to maintain ambient temperatures.

Thanks for the opportunity to comment, we look forward to cooperating with you in upcoming phases of this project. Please feel free to call or email me with any questions you have.

Sincerely,

Rian Reed
DNR Northeast Regional Environmental Assessment Ecologist
MNDNR, 1201 East Hwy 2
Grand Rapids, MN 55744
218-999-7826
rian.reed@state.mn.us

Response to Comment D: See response to comment C above.

Response to Comment E: The preferred alternative (Alternative E-2) does not require extensive dewatering and will not impact other surface waters or fisheries.

Response to Comment F: The purpose of the water discharged to Bailey and Virginia Lakes is to maintain water levels in the lakes, not temperature, as noted by the DNR. Section 5.2.2 of the Draft EIS correctly states, "The pumping system can also divert water flow into Sauntry Creek system to supplement flow to Bailey and Silver Lakes." Correction noted regarding the VPU discharge; it is not intended to maintain ambient temperatures in Bailey and Silver Lakes.

11.5 Minnesota Pollution Control Agency

Minnesota Pollution Control Agency

520 Lafayette Road North | St. Paul, Minnesota 55155-4194 | 651-296-6300

800-657-3864 | 651-282-5332 TTY | www.pca.state.mn.us | Equal Opportunity Employer

February 5, 2015

Mr. Pat Huston, Project Manager
MnDOT District 1
1123 Mesaba Ave.
Duluth, MN 55811

RE: US Highway 53 Virginia to Eveleth, Draft Environmental Impact Statement

Dear Mr. Huston:

A Thank you for the opportunity to review and comment on the Draft Environmental Impact Statement (DEIS) for the US Highway 53 Virginia to Eveleth project (Project) located in St. Louis County, Minnesota. Minnesota Pollution Control Agency (MPCA) staff has reviewed the DEIS and have no comments at this time.

We appreciate the opportunity to review this project. **Please provide the notice of decision on the need for an Environmental Impact Statement.** Please be aware that this letter does not constitute approval by the MPCA of any or all elements of the Project for the purpose of pending or future permit action(s) by the MPCA. Ultimately, it is the responsibility of the Project proposer to secure any required permits and to comply with any requisite permit conditions. If you have any questions concerning our review of this DEIS please contact me at 651-757-2482.

Sincerely,

Kevin Kain
Project Manager
Environment & Energy Section
Resource Management & Assistance Division

KK:ld

cc: Dan Card, MPCA, St. Paul
Richard Clark, MPCA, St. Paul
Tom Estabrooks, MPCA, Duluth

Response to Comment A: Thank you for your review and comment.

11.6 Public Comments

Haase, Rachel

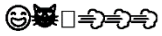
From: Liz Motley [redacted]
Sent: Sunday, January 04, 2015 7:42 AM
To: Huston, Patrick (DOT)
Subject: EIS for highway 53

Hi,

A I was just wandering where the snowmobile trail from Eveleth to Virginia would be relocated under this potential new relocation of 53. I live in Midway (between Eveleth and virginia) and the bike and snowmobile trails will be changing for me. Thanks for your time.

Liz

Elizabeth Motley



1

Response to Comment A: See Section 4.4 of the Final EIS for a description of the trail plan.

Comment Form

January 22, 2015 Open House/Public Hearing

Name: Doug Nelson

Address: [redacted]

Phone: [redacted]

Email:

You may leave this completed form with us today by dropping it into the comment box. You may also email your comments to Pat Huston, MnDOT Project Manager, at Patrick.Huston@state.mn.us or mail this form to the following address:

Pat Huston, Project Manager
MnDOT District 1
1123 Mesaba Avenue
Duluth, MN 55811

Comments on the Draft EIS and FHWA's intent to make a *de minimis* determination regarding the project's impact to the Iron Range Off-Highway Vehicle Recreation Area (OHVRA) will be accepted through **February 5, 2015**.

B MAIN CONCERNS: ① SALT, SAND, CHEMICALS FROM BRIDGE DECK FINDING IT'S WAY INTO VA. WATER SUPPLY

C ② COULD EXTRA MEASURES BE TAKEN TO MINIMIZE SLIPPERY BRIDGEDECK IN COLD WEATHER MONTHS.

D ③ WOULD BLASTING FROM MINING OPERATIONS COMPROMIZE BRIDGE SUPPORT STRUCTURES AND WEAKEN THE BRIDGE?

Additional space on back side

1

Response to Comment B: MnDOT will implement winter maintenance operations that include snow removal from the bridge after snow events to minimize the amount of runoff from the bridge. Snow will not be plowed over the sides of the bridge. The bridge design will also include features that carry runoff over the expansion joints to prevent direct runoff from the bridge into the pit. Runoff from the east bridge approach will be collected on the east side of the bridge to minimize flow crossing the bridge/pit. Similarly, stormwater pond(s) are planned on the west side of the bridge. All drainage from the bridge will be carried to the west side and into the stormwater system, which will ultimately flow to the same location to which the existing highway flows today.

Response to Comment C: MnDOT has evaluated both a friction course and an anti-icing system for the bridge. A friction course consists of gluing small rock chips to the concrete deck with epoxy to enhance traction. Anti-icing systems spray magnesium chloride on the deck. This method is expensive, corrosive to concrete and steel, adds extra chlorides to the environment, and is maintenance-intensive to keep operating. Therefore, MnDOT has elected to place a friction course on the deck.

Response to Comment D: This issue is being analyzed by geotechnical and bridge design engineers and appropriate measures are being taken into the bridge design as well as right-of-way setbacks. The bridge will be designed with consideration of future mining activity near the bridge to ensure blasting effects will not compromise the support of the bridge. MnDOT will also implement setback agreements with RGGS that will protect the integrity of the bridge from blasting and flyrock.

Comment Form

January 22, 2015 Open House/Public Hearing

Name: Gary + Linda Carlson

Address: [redacted]

Phone: [redacted]

Email: [redacted]

You may leave this completed form with us today by dropping it into the comment box. You may also email your comments to Pat Huston, MnDOT Project Manager, at Patrick.Huston@state.mn.us or mail this form to the following address:

Pat Huston, Project Manager
MnDOT District 1
1123 Mesaba Avenue
Duluth, MN 55811

Comments on the Draft EIS and FHWA's intent to make a *de minimis* determination regarding the project's impact to the Iron Range Off-Highway Vehicle Recreation Area (OHVRA) will be accepted through **February 5, 2015**.

E We're happy to see that E-2 with the interchange option is the preferred plan. Make as few (or no) stop signs to keep the traffic moving.

Additional space on back side

Response to Comment E: The preferred alternative is Alternative E-2 with the Interchange Option. One signalized intersection at 2nd Avenue is included in the project. No stop signs will be used on the through lanes of US 53.

Comment Form

January 22, 2015 Open House/Public Hearing

Name: Gary Kamunen

Address [redacted]

Phone: [redacted]

Email: [redacted]

You may leave this completed form with us today by dropping it into the comment box. You may also email your comments to Pat Huston, MnDOT Project Manager, at Patrick.Huston@state.mn.us or mail this form to the following address:

Pat Huston, Project Manager
MnDOT District 1
1123 Mesaba Avenue
Duluth, MN 55811

Comments on the Draft EIS and FHWA's intent to make a *de minimis* determination regarding the project's impact to the Iron Range Off-Highway Vehicle Recreation Area (OHVRA) will be accepted through **February 5, 2015**.

F Many of us would like to see plans in your new highway proposal to accomodate ATV travel to and from the City of Virginia, Ev., Gilbert etc. if at all possible.

Additional space on back side

1

Response to Comment F: See Section 4.4 of the Final EIS for a description of the trail plan.

Comment Form

January 22, 2015 Open House/Public Hearing

Name: MICHAEL LEVIS

Address: [redacted]

Phone: [redacted]

Email: [redacted]

You may leave this completed form with us today by dropping it into the comment box. You may also email your comments to Pat Huston, MnDOT Project Manager, at Patrick.Huston@state.mn.us or mail this form to the following address:

Pat Huston, Project Manager
MnDOT District 1
1123 Mesaba Avenue
Duluth, MN 55811

Comments on the Draft EIS and FHWA's intent to make a *de minimis* determination regarding the project's impact to the Iron Range Off-Highway Vehicle Recreation Area (OHVRA) will be accepted through **February 5, 2015**.

G

LOOKING FORWARD HAVING ATV TRAIL CONNECTING ROUTES GOING INTO ATV PARK IN GILBERT. NICE TO CONNECT MANY TRAILS AND TOWNS TOGETHER.

SPEED LIMIT SHOULD BE 10-15 MPH BECAUSE OF SAFETY ISSUES.

THANK YOU FOR ALLOWING ATV'S AND SNOWMOBILE TRAFFIC ACROSS BRIDGE LINKING PEOPLE AND TOWNS TOGETHER BRINGING TOURISM MONEY TO MERITS IN NEED.

Additional space on back side

1

Response to Comment G: See Section 4.4 of the Final EIS for a description of the trail plan.

Comment Form

January 22, 2015 Open House/Public Hearing

Name: Ed ZAKRZEWSKI

Address: [redacted]

Phone: [redacted]

Email: [redacted]

You may leave this completed form with us today by dropping it into the comment box. You may also email your comments to Pat Huston, MnDOT Project Manager, at Patrick.Huston@state.mn.us or mail this form to the following address:

Pat Huston, Project Manager
MnDOT District 1
1123 Mesaba Avenue
Duluth, MN 55811

Comments on the Draft EIS and FHWA's intent to make a *de minimis* determination regarding the project's impact to the Iron Range Off-Highway Vehicle Recreation Area (OHVRA) will be accepted through **February 5, 2015**.

H I AM FOR IT WITH ATV & SNOWMOBILE ACCESS.

Additional space on back side

1

Response to Comment H: See Section 4.4 of the Final EIS for a description of the trail plan.

Comment Form

January 22, 2015 Open House/Public Hearing

Name: DALE IRISH

Address: [redacted]

Phone: [redacted]

Email: [redacted]

You may leave this completed form with us today by dropping it into the comment box. You may also email your comments to Pat Huston, MnDOT Project Manager, at Patrick.Huston@state.mn.us or mail this form to the following address:

Pat Huston, Project Manager
MnDOT District 1
1123 Mesaba Avenue
Duluth, MN 55811

Comments on the Draft EIS and FHWA's intent to make a *de minimis* determination regarding the project's impact to the Iron Range Off-Highway Vehicle Recreation Area (OHVRA) will be accepted through **February 5, 2015**.

I AS AN AVID ATV RIDER I WOULD LIKE TO SEE ATV USE ON THE BRIDGE, THIS WOULD ALSO US TO PROVIDE ATV TRAILS TO CONNECT VIRGINIA AREA TO THE NEW A.T.V. PARK.

DALE IRISH REGION II DIRECTOR FOR ATVAM

Additional space on back side

1

Response to Comment I: See Section 4.4 of the Final EIS for a description of the trail plan.

MINNESOTA DEPARTMENT OF TRANSPORTATION

US Highway 53 Rerouting

DRAFT EIS OPEN HOUSE/PUBLIC HEARING

January 22, 2015

6:00 p.m.

Mountain Iron Community Center

8586 Enterprise Drive South

Mountain Iron, Minnesota

REPORTED BY: Paula Berg

Meeting facilitator:
Beth Petrowske, Public Affairs Director
District One
1123 Mesaba Avenue
Duluth, MN 55811

The following are public comments taken before Paula E. Berg, RPR, Certified Shorthand Reporter, Notary Public.

(Public comments were encouraged, and participants presented at the table of the Court Reporter.)

06:19PM **MR. SHELDON KRALL:** My name is Sheldon Krall.

06:19PM And I wish to make some comments on
06:19PM the bridge which I feel is being idiotic, because
06:19PM they did not address the blasting in the mine that
06:19PM is affecting the bridge, and also the safety
06:19PM factor of the bridge itself with winter conditions
06:19PM and slippery.
06:20PM And with all of the fuel trucks and
06:20PM HAZMAT going across that bridge you have to worry

about having a spill on the bridge going right into the water for the Rouchleau, the Richleau water supply that feeds the Virginia water supply.

And that's my biggest worries is the safety on that bridge that would be better off --

I worked in the mines for over 35 years.

To fill that area in and put a land bridge over it, not a bridge.

This is less cost factor because a bridge is only good for 20 to 25 years and then you have got a repair it, where a land bridge doesn't cost that much.

You could build that area in in about four or five months.

That's my comment.

That's it. Thank you.

MS. MARY McREYNOLDS: My name is Mary McReynolds, and I have a comment that deals with safety concerning the intersection that is the access to the landfill road.

K

The heavy equipment that the county has going in and out of that road, I'm concerned about the speed on Highway 53 and the ability for acceleration lanes in that particular area for the

Response to Comment J: MnDOT has considered safety in preliminary design of the bridge by minimizing the slope on the bridge and avoiding use of a curved structure. MnDOT has elected to place a "friction course" on the deck to enhance traction. This consists of gluing small rock chips to the concrete deck with epoxy. MnDOT has also planned for spill containment measures by designing the bridge to have no direct drainage into the Rouchleau Pit. All stormwater runoff from the road and bridge will be collected in areas where emergency containment can be implemented if necessary.

With regards to the cost of a bridge versus fill, the Draft EIS (Section 2.3.5) described the differences in constructability issues. The volume of fill alone is prohibitive given the depth of the pit combined with the length and width of fill that would be needed, as well as the concerns with that much filing activity within a half-mile of the water supply intake. The longevity of the bridge structure should exceed 75 years.

07:55PM large trucks with heavy loads going out of the
07:55PM landfill mostly, but also in crossing over Highway
07:55PM 53 and in the uncontrolled intersection.
07:55PM That's all.

(This concluded the public statements made in Mountain Iron, Minnesota on January 22, 2015.)

Response to Comment K: MnDOT has looked extensively at the intersection of US 53 and Landfill Road. Acceleration lanes are not justified by current design standards; in addition, the very narrow right-of-way does not provide room for including acceleration lanes. A northbound right turn lane and a southbound left turn lane to Landfill Road will be constructed. The proposed design meets current design standards for traffic safety considering traffic volumes, speed, and grade.

Haase, Rachel

From: John Motley [redacted]
Sent: Tuesday, February 03, 2015 11:10 AM
To: Huston, Patrick (DOT)
Subject: Hyw 53 relocation project

L After reviewing the information on this project I am convinced the Alternative E-2 is my preferred option. I will leave it up to folks who are more informed than I am as to the Straight or Curved Setback Option. The minor impact to the OHVRA is acceptable. Thank you for your consideration.

1

Response to Comment L: Thank you for your review and comment.

Haase, Rachel

From: Linnea Manning [redacted]
Date: February 5, 2015 at 3:42:14 PM CST
To: "patrick.huston@state.mn.us" <patrick.huston@state.mn.us>
Subject: U.S. Hwy 53 Relocation Project

Dear Mr. Huston:

I am writing in regard to the US Hwy 53 Relocation Project and the meeting that I attended on January 22, 2015. I must say that my faith in the project was renewed after attending the meeting, however, I have one concern that I would like to express...that being the Straight Option vs the Curved Option between Cuyuna Drive and MN 135.

M I agree that the Alternative E-2 route is the best choice available between all existing options, but it seems that the Curved Option would increase the cost of the project significantly, not to mention that the noise level to the residents of Midway would also increase greatly. Being a resident of Midway myself, I am aware of the highway noise and the noise from the mine that currently exists. By adding the curved route, the Midway residents will have noise coming from the north and west which may create the need for a noise wall, which would in turn, greatly increase the cost of the project.

N I believe that unnecessary costs would be avoided by just updating and reusing the existing highway road bed. This would also allow for the least amount of highway disturbance to the Midway residents.

Thank you for taking the time to read my thoughts on this matter. I am excited to see and use the new E-2 roadway and bridge when it is finished. Keep up the good work.

Sincerely.

Linnea Manning

[redacted]

Sent from my iPad

Response to Comment M: The Straight Option has been selected as part of the preferred alternative. The Curved Setback Option has been dismissed as described in Section 2.3 of the Final EIS.

Response to Comment N: The Straight Option does reuse much of the existing route of US 53/MN 135 exit ramp for the preferred alternative.

Steven Lotz
[redacted]

2-6-15

re: Highway 53 EIS

Pat Huston, Project Manager
MnDOT District 1
1123 Mesaba Avenue
Duluth, MN 55811
Patrick.Huston@state.mn.us

Pat Huston,

I came to discover this morning that the comment deadline was February 5 even though I had in my head February 6 and thus these comments are one day late. I have been grinding on them for some time and am submitting them anyway.

The primary task of any highway is to move people and goods safely from one point to another. As an example of the proper concept look to US 53 in Wisconsin. With the bypass of Eau Claire one now travels from the City of Superior to Interstate 94 unimpeded by either towns or stop lights. This has resulted in a savings of hours while making for a safer trip when compared with the old US 53 as a two lane highway from I 94 to Superior.

O

The westerly route by-passing Eveleth and Virginia should not have been eliminated from the environmental review. Rather problems with that route should have been addressed and the plan adjusted, refined, and improved.

The preferred alternative replaces a section of roadway that has just about the worst problems with icing and slippery surfaces of any around with a longer section of road with sharper and longer curves and a long high bridge over a body of water. True planning. And it is routed over know mineral deposits as well. All to get lined up with the same three sets of stop lights on one end and the same single set of stop lights on the other. To design a roadway in response to political pressure to protect a favored group of businesses at the expense of the traveling public and all other businesses is unfortunate. It is made worse that the public picks up the cost in safety, in time, and in dollars.

Steven Lotz

Response to Comment O: The reasons the western alternative was dismissed were explained in detail in Sections 2.1 and 2.2 of the Draft EIS and summarized in Section 2.1.1 of the Final EIS. This decision was supported by an extensive economic study that indicated severe impacts would result from the western alternative. The reasons for selection of the preferred alternative were provided in Section 10.3 of the Draft EIS and in Section 2.3 of the Final EIS.